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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Improve
Public Access to Public Records Pursuant to
the California Public Records Act.

Rulemaking 14-11-001
(Filed November 6, 2014)

**REPLY COMMENTS OF RASIER-CA, LLC ON PROPOSED DECISION
UPDATING COMMISSION PROCESSES RELATING TO POTENTIALLY
CONFIDENTIAL DOCUMENTS**

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Improve
Public Access to Public Records Pursuant to
the California Public Records Act.

Rulemaking 14-11-001
(Filed November 14, 2014)

**REPLY COMMENTS OF RASIER-CA, LLC ON PROPOSED DECISION
UPDATING COMMISSION PROCESSES RELATING TO POTENTIALLY
CONFIDENTIAL DOCUMENTS¹**

Parties generally agree that the Commission should eliminate the proposal to require an officer's declaration upon submission of confidential information.² Southern California Edison Company ("SCE"), Pacific Gas and Electric Company ("PG&E"), San Diego Gas & Electric Company ("SDG&E"), Southern California Gas Company ("So Cal Gas"), Southwest Gas Corporation ("Southwest Gas"), the Independent Storage Providers, and the Communications Industry Coalition all correctly observe that requiring a declaration will lead to unnecessary

¹ Rasier-CA, LLC ("Rasier-CA") submits these reply comments on the Proposed Decision Updating Commission Processes Relating to Potentially Confidential Documents ("Proposed Decision") pursuant to Commission Rule 14.3.

² Joint Opening Comments of Southern California Edison Company and Pacific Gas and Electric Company on Proposed Decision of Commission President Picker ("SCE and PG&E Opening Comments"), at 3-7; Joint Opening Comments of San Diego Gas & Electric Company, Southern California Gas Company, and Southwest Gas Corporation on Proposed Decision Updating Commission Processes Relating to Potentially Confidential Documents ("SDG&E, So Cal Gas, and Southwest Gas Opening Comments"), at 4-6; Comments of the Independent Storage Providers on Proposed Decision Updating Commission Processes Relating to Potentially Confidential Documents ("Independent Storage Providers Opening Comments"), at 2-3; Comments of Communications Industry Coalition on Proposed Decision of Commissioner Picker Updating Processes Relating to Potentially Confidential Documents ("CIC Opening Comments"), at 4-6.

inefficiency and/or delays.³ Rasier-CA raised similar concerns in its opening comments.⁴

Rasier-CA agrees with the Communications Industry Coalition that a clear and conspicuous confidential marking and a simple statement as to the grounds for confidential treatment is sufficient.⁵ At a minimum, if the declaration requirement is retained, the Commission should modify it to allow declarations to be signed by an employee with knowledge of the information being submitted, rather than requiring the signature of an officer.⁶

Rasier-CA also agrees with parties that recommend modification of the Proposed Decision to ensure due process. Most parties agree that the proposal should provide an affected party with notice, an opportunity to be heard prior to the release of confidential information, and an appeals process.⁷ Adopting these additional protections will provide the necessary safeguards to ensure that the Commission or Commission staff will not inadvertently disclose confidential and competitively-sensitive information. These safeguards will also provide parties with assurances that the information they have submitted is protected, which will benefit the Commission by encouraging a free flow of information.

Rasier-CA further agrees with the California Association of Competitive Telecommunications Companies' ("CALTEL") proposal to modify the proposed rule to clarify

³ *Id.*

⁴ Rasier-CA Opening Comments, at 1.

⁵ CIC Opening Comments, at 3.

⁶ SDG&E, So Cal Gas, and Southwest Gas Opening Comments, at 5.

⁷ CIC Opening Comments, at 7-9 SDG&E, So Cal Gas, and Southwest Gas Opening Comments, at 2-4;. Independent Storage Providers Opening Comments, at 3-6, SCE and PG&E Opening Comments, at 6-9, Opening Comments of California Water Association, at 5-6.

“what a valid basis for protection from disclosure” includes.⁸ CALTEL identifies categories of information that should, at a minimum, be deemed confidential.⁹ Rasier-CA agrees that competitively-sensitive information that fall under trade secrets privileges and individually-identifiable subscriber information constitute confidential information and should be included as a valid basis for asserting confidential treatment. However to the extent that any list is developed, the Commission should clarify that the list is not exclusive, and that parties may identify other bases for confidential treatment.

Imperial Irrigation District’s proposal requiring parties to set forth an analysis for any request for confidential treatment is excessive and should be rejected.¹⁰ Under the Imperial Irrigation District’s proposal, parties would be required to submit “sufficient legal analysis, including case law references to seminal cases covering the definition of ‘confidential’ information; and include a factual analysis of the basis for the exemption requested.”¹¹ Imperial Irrigation District is effectively requesting a legal brief for each submission of confidential information. Given that most confidential information submitted to the Commission is never subject to the PRA request, this requirement is excessive. This proposal will hurt the free flow of information and should be rejected.

⁸ Opening Comments of the California Association of Competitive Telecommunications Companies Regarding Proposed Decision of Commissioner Picker Updating Commission Processes Relating to Potentially Confidential Documents (“CALTEL Opening Comments”), at 2-3.

⁹ CALTEL Opening Comments, at 2-3.

¹⁰ Imperial Irrigation District's Comments on Proposed Decision Relating to Access to Public Records, at 27.

¹¹ *Id.*

Rasier-CA urges the Commission to modify the proposal to ensure an efficient process for both the regulated entities requesting confidential treatment and the Commission who requires timely responses. Rasier-CA believes that the targeted modifications described above appropriately balances these interests.

Dated this July 25, 2016, in San Francisco, California.

Respectfully submitted,

By: _____/s
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